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**From:**

**Sent:** Tuesday, May 11, 2010 7:47 AM

**To:**

**Cc:**

**Subject:** RE: Algerian exceptional profits tax.

It appears that the base of the Algerian Exceptional Profits Tax is gross income. As such it cannot be an income tax under section 901. Since taxpayer is paying an income tax and this non-income tax is in addition to and not in lieu of an income tax, our position is that it cannot qualify under section 903, as an in lieu of tax. Some taxpayers have argued that an income tax and a non-income tax in combination can qualify as an alternative tax regime in lieu of the income tax imposed on other business sectors. Although the regulation example, 1.903-1(b)(3), Example (4), allows multiple levies to be combined we interpret this example to allow only non-income taxes to be combined. We do not accept this argument that taxpayers can combine an income tax and a non-income tax. Here, taxpayer argument's to combine the levies is weakened by the fact that this gross basis tax was introduced at a later time, after the income tax had been in effect for some time. Plus, the income tax they pay is the generally applicable income tax. If the only difference in the generally applicable tax others pay and the tax the dual capacity taxpayer pays is the applicable rate, it's not a separate levy under the regulations.

I know this is brief. Let me know if you need more.